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BILL



ANALYSIS

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Senate Bill 1206 (as introduced 7-18-12)
Sponsor: Senator Tom Casperson
Committee: Natural Resources, Environment and Great Lakes

Date Completed: 9-12-12

CONTENT

The bill would amend Part 31 (Water Resources Protection) of the Natural Resources and Environmental Protection Act to make an exception to several administrative rules regarding the land application of biosolids for bulk biosolids and derivatives that were of exceptional quality and met other criteria, provided the material was used for landscaping.

Part 24 of the Michigan Administrative Code regulates the land application of biosolids. These rules define "biosolids" as solid, semisolid, or liquid residue generated during the treatment of sanitary sewage or domestic sewage in a treatment works. The term includes scum or solids removed in primary, secondary, or advanced wastewater treatment process and a derivative of the removed scum or solids.

Rule 323.2408 prohibits the application of particular biosolids to certain types of land, prohibits the application of biosolids from more than one source or septage, requires applicators to obtain certain information about sites where land application is proposed, and prescribes notification requirements. Rule 323.2410 establishes management practices for land application of biosolids. (Both of these rules are described in further detail below, under **BACKGROUND.**)

Under the bill, the requirements of R 323.2408 and R 323.2410 in effect on the bill's effective date, or subsequent revisions of those requirements, would not apply to bulk biosolids or a bulk derivative that was sold or given away if all of the following requirements were met:

- The material was finished compost or other material that was demonstrated to be mature and stable and to present minimal vector attraction and potential to generate a nuisance.
- The material was of exceptional quality.
- The material was used beneficially for its nutrient value in accordance with the generator's approved residuals program.

In addition, the generator or distributor would have to give the person receiving the material a written record that contained all of the following information:

- The name and address of the person who prepared the material.
- General handling guidelines and recommended application rates.
- A current monitoring summary of nitrogen, phosphorus, and potassium concentrations.

Also, the material could be used only for landscaping uses at one or more of the following locations: a public park, athletic field, cemetery, plant nursery, turf farm, golf course, lawn, home garden, or any other location approved by the Director of the Department of Environmental Quality (DEQ) or his or her designee.

The exception to the specified rules would apply notwithstanding R 323.2407(3) of the Michigan Administrative Code. (Rule 2407 creates exceptions to several land application requirements and management practices for biosolids that meet the criteria for exceptional quality. Under subsection (3), however, the DEQ may apply any or all of those rules on a case-by-case basis after determining that the general requirements or management practices are needed to protect the public health and the environment from any reasonably anticipated adverse effect that may occur from any pollutant in the biosolids.)

The bill also provides that the requirements of R 323.2413(2)(a) through (i) in effect on the bills' effective date would not apply to bulk biosolids or a bulk derivative of exceptional quality used for landscaping purposes. (This rule contains record-keeping provisions, which are described below.)

The bill would require a person who generated bulk biosolids or a bulk derivative of exceptional quality for landscaping uses to keep a record of quantities that exceeded 20 cubic yards sold or given away in a single transaction, and make it available to the DEQ for inspection and copying. The record would have to include all of the following information:

- The recipient's name and address.
- The quantity received.
- The recipient's signature or initials.
- A general description of the intended use, consistent with the locations prescribed in the bill.

The definitions used in R 324.3202 of the Michigan Administrative Code would apply to terms used in the bill.

("Bulk biosolids" means biosolids that are not sold or given away in a bag or other container for application to a lawn or home garden.

"Derivative" means a product for land application derived from biosolids that does not include solid waste or other waste regulated under the Act. The term does not include materials or treatment chemicals integral to the wastewater treatment and biosolids unit processes, such as lime or ferric chloride.

"Exceptional quality" means biosolids or a derivative that meets pollutant ceiling concentrations and pollutant concentrations prescribed in the rules, as well as one of the vector attraction reduction options and one of the pathogen reduction alternatives specified in the rules.

"Generator" means a person who generates biosolids that are applied to land. "Residuals management program" means a program that is required by a generator's permit and is developed in accordance with requirements prescribed in the rules.)

The bill also would define "bulk derivative" as a derivative that is not sold or given away in a bag or other container for application to a lawn or home garden.

MCL 324.3131

BACKGROUND

R 324.2408. This rule prohibits a person from applying bulk biosolids in excess of prescribed cumulative pollutant loading rates to agricultural land, a forest, a public contact site, or a reclamation site. In addition, the rule prohibits a person from knowingly applying bulk biosolids from more than one source or septage to the same land application site within the same crop year.

The rule requires a person who applies biosolids to the land to obtain information needed to determine when bulk biosolids subject to cumulative pollutant loading rates were last applied to that land and whether the cumulative amount of each pollutant applied to the site is known. Depending on the last application date and whether the cumulative amount is known, the person may be allowed to use the pollutants up to the cumulative loading rates, or may be prohibited from using them.

The rule also contains notification requirements applicable to a generator or distributor, a person who prepares bulk biosolids that are applied to land, and a person who applies bulk biosolids to the land.

R 324.2410. Under this rule, a person may not apply bulk biosolids to the land if it is likely to adversely affect a threatened or endangered species or its designated critical habitat. The rule also prohibits a person from applying bulk biosolids to agricultural land, a forest, a public contact site, or a reclamation site that is flooded, saturated with water, frozen, or snow-covered so that the biosolids enter a wetland or other waters of the State.

A person may subsurface inject bulk biosolids on frozen or snow-covered ground as long as there is substantial soil coverage of the applied biosolids. A person may not surface apply bulk biosolids, other than those of exceptional quality, on frozen or snow-covered ground, unless otherwise approved by the DEQ.

The rule prohibits the application of bulk biosolids on land exceeding a certain slope, unless the use is in accordance with a DEQ-approved site management plan. The rule also prohibits the application of bulk biosolids to agricultural land, a forest, public contact site, or reclamation site at a rate that is equal to or less than the agronomic rate, unless the application is in accordance with an approved site management plan.

The rule requires a generator or distributor to affix a label containing specified information to the bag or other container in which biosolids are sold or given away for land application, or provide an information sheet to the person who receives the biosolids.

Under the rule, a person who applies biosolids must perform soil fertility tests on soils sampled from each application site before the initial application. The person must resample and test regularly at least every two years.

The rule prescribes biosolid application rates for agricultural and silvicultural land, and prohibits application when specific soil test thresholds are exceeded. In addition, the rule prescribes rates for wastewater biosolids application in Michigan forests based on tree type.

R 323.2413. Under this rule, a person who generates bulk biosolids or bulk derivatives must keep all of the following records and make them available for inspection and copying:

- Site information of each application site.
- Written consent to apply biosolids from the property owner and farm operator, if different from the property owner.
- A written agreement between the generator and the farmer not to apply biosolids from other sources or septage to a listed land application site.

- Biosolids analysis parameters listed in the rules at a prescribed frequency of analysis.
- Soil fertility test results for each site.
- For each biosolids-applied site, a summary of application activity.
- For bulk biosolids subject to the cumulative pollutant loading rates, the location of the land application site, and the name, address, telephone number, and National Pollutant Discharge Elimination System permit number of the person who will apply the bulk biosolids.
- An annual summary.
- For a biosolid generator, all application rate information from the monitoring of pollutant concentrations and nutrients, and agronomic information, specified in the rules.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton